

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

RENE (SONNY) BOLDUÇ,
Plaintiff,

No. 1:13-cv-816-PA

v.

ORDER

ICWUSA.COM, INC.,
Defendant.

PANNER, J.

Plaintiff brings claims for employment discrimination against defendant. The jury found for defendant on all claims.

Plaintiff now moves to reconsider the denial of his motion for judgment as a matter of law. Alternatively, plaintiff seeks a new trial. I deny the motion.

STANDARDS

"Judgment as a matter of law is appropriate when the evidence, construed in the light most favorable to the non-moving party, permits only one reasonable conclusion, which is contrary to the jury's verdict.'" Hagen v. City of Eugene, 736

F.3d 1251, 1256 (9th Cir. 2013) (quoting Omega Envtl., Inc. v. Gilbarco, Inc., 127 F.3d 1157, 1161 (9th Cir. 1997)).

Under Federal Rule of Civil Procedure 59, a trial court may order a new trial if the jury's verdict is against the clear weight of the evidence, is based on false evidence, or would cause a miscarriage of justice. Molski v. M.J. Cable, Inc., 481 F.3d 724, 729 (9th Cir. 2007) (internal citation omitted).

DISCUSSION

The verdict indicates the jury did not find plaintiff credible. The jury could reasonably find plaintiff failed to prove a hostile work environment or retaliation for filing a worker's compensation claim. Substantial evidence supported the jury's verdict.

Plaintiff objects to the verdict form. Plaintiff argues that because the verdict form asked only whether defendant terminated plaintiff for filing a worker's compensation claim, the form prevented the jury from finding defendant retaliated against plaintiff with measures, such as pay cuts, that fall short of termination.

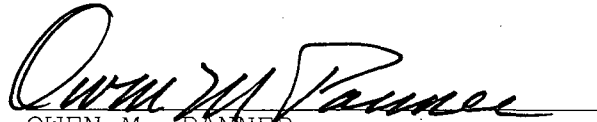
I agree with defendant that plaintiff waived his challenge to the verdict form by failing to object when I reviewed the verdict form with counsel during trial. Even if plaintiff did not waive this objection, any error in the verdict form was harmless because the jury found defendant did not retaliate against plaintiff.

CONCLUSION

Plaintiff's motion for reconsideration and for a new trial (#86) is denied.

IT IS SO ORDERED.

DATED this 6 day of May, 2014.


OWEN M. PANNER
U.S. DISTRICT JUDGE